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Chairman: Mr. Enkhsaikhan ..... (Mongolia)
later: Mrs. Flores Liera (Vice-Chairman) ..... (Mexico)

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The meeting was called to order at 10.20 a.m.

Agenda item 154: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/53/33, 312, 326 and 386)

1. **Mr. Choe Myong Nam** (Democratic People's Republic of Korea) said that, as pointed out in the Secretary-General's report on implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/53/312), the sanctions applied under Chapter VII of the Charter had many adverse effects on third States, a fact which had long been a cause of concern to the international community. Worse still, most of the victimized States were developing countries. The provision of assistance for such third States was therefore an urgent issue, and the Secretary-General's report contained some encouragement in that regard. However, it said hardly anything about the role of the Security Council in adopting the sanctions, although saying much about the role of the international financial and development organizations. His delegation endorsed the proposals of the Movement of Non-Aligned Countries and many other countries, which included the establishment of a permanent mechanism for the just solution of the problem.

2. The working paper entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures" (A/53/33, chap. III.B), submitted by the Russian Federation to the Special Committee, made some interesting points. The delegation of the Democratic People's Republic of Korea was opposed to the use of sanctions as the unique means of dispute settlement. Sanctions under Chapter VII should be imposed only as a last resort and in full compliance with the Charter; they must never cause harm to humanitarian and human rights causes in the target States or in third States. Time limits should be set, so that the sanctions could be lifted immediately the objective was realized, and they must never be used indefinitely as a means of changing a country's legitimate political system.

3. The Special Committee should strengthen its coordination with the other bodies dealing with the reform of the United Nations, with a view to avoiding duplication and facilitating the reform debate, which should focus not only on enhancement of the power of the General Assembly and the democratization of the Security Council but also on the correction of the facts of the history of the United Nations. In that connection, the name and flag of the United Nations had been abused by the United States forces masquerading in South Korea as the "United Nations command" since the Korean War in 1950. It was common knowledge that Security Council resolution 84 (1950), claimed by the United States to be the basis for the "United Nations command", was adopted in the absence of one of the Council's permanent members, in violation of Article 27, paragraph 3, of the Charter. That illegally adopted resolution only recommended that all Member States providing military forces and other assistance should "make such forces and other assistance available to a unified command under the United States of America". It did not mention a "United Nations command", which was nothing more than the United States forces in South Korea.

4. **Mr. Rosenstock** (United States), speaking on a point of order, said that the representative of the Democratic People's Republic of Korea should keep to the item under discussion instead of introducing entirely unrelated material at great and offensive length.

5. **Mr. Choe Myong Nam** (Democratic People's Republic of Korea) said that his remarks were connected with the reform of the United Nations. His delegation wished to correct the history of the United Nations, in the interests of the Democratic People's Republic of Korea and of the whole international community.

6. The United States forces masquerading as the "United Nations command" in South Korea had misled public opinion, creating the impression that belligerent relations existed between the Democratic People's Republic of Korea and the United Nations. The United States was abusing the United Nations in pursuit of its political and military strategy in the Korean Peninsula. Such conduct not only contradicted the Charter but also jeopardized the credibility of the United Nations. It should be tolerated no longer. The Sixth Committee and the Special Committee should endeavour to correct the abuse.

7. **Ms. Baykal** (Turkey) said that the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures, in which a Turkish expert had participated, had produced commendable results. One particularly important conclusion was that the cost of implementing the sanctions should be viewed as an opportunity cost of an alternative to international military action or a peacekeeping operation. Just as the cost of such actions or operations was shared by the international community, so should the cost of preventive or enforcement measures be borne on a more equitable basis. The time had come to establish a formal mechanism to alleviate the negative effects of sanctions on third States. Such States had

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supported the idea of setting up a working group of the Sixth Committee to study the question, but another group of States had always rejected that idea. It was to be hoped that the valuable work of the ad hoc expert group would in fact be followed up. In that connection the Secretary-General should seek the views of Governments and international financial and trade institutions, as well as of the Economic and Social Council. The Special Committee should then discuss those views at its 1999 session.

8. There was a direct relationship between the effects of sanctions and the proceedings of the Security Council and the sanctions committees. There had been some positive developments in that connection, but the overall results were not satisfactory. Turkey was still suffering from the application of sanctions against Iraq and still experienced difficulties in dealing with the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait. It had submitted an application to that committee with a view to receiving damages as a third State, but had received no reply. It was also important to secure transparency in the work of the Security Council and the sanctions committees, for that would help to mitigate their adverse effects on third States.

9. The papers submitted to the Special Committee by the Russian Federation contained useful ideas. In particular, the proposals on sanctions and other enforcement measures would provide the Security Council with clear and objective criteria. In connection with the revised proposal of Sierra Leone on "Establishment of a Dispute Prevention and Early Settlement Service" (A/53/33, chap. IV.A), the Turkish delegation believed that the consent of the parties to the dispute was needed before the proposed Board of Administrators could deal with a dispute.

10. At its latest session the Special Committee had discussed its working methods, which could certainly be improved: the meetings must start on time and better use must be made of conference services. However, there was no need to shorten the Special Committee's sessions or to limit its agenda to topics mandated by the General Assembly.

11. **Mr. Kawamura** (Japan) said that the question of the implementation of Charter provisions related to assistance to third States affected by sanctions must be dealt with effectively and expeditiously. For example, a methodology must be developed for assessing the consequences suffered by third States. In that connection the work of the ad hoc expert group was welcome, and the Sixth Committee must now consider the possibility of implementing its recommendations. The recommendation for the submission of an advanced assessment of the potential impact of sanctions on the target country and on third States was a useful one, but the recommendation concerning appointment of a special representative of the Secretary-General and special evaluation missions needed further study. It must always be borne in mind that the measures taken to ease the effects on third States must not hamper the application of the sanctions themselves.

12. His delegation stressed the importance of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, not only for delegations but for the public at large. It commended the Secretariat's efforts to expedite the issue of those publications. However, according to the Secretary-General's report (A/53/386), publication was currently one and a half decades in arrears. A practical solution must be found from withing existing resources. Publication could surely be further expedited if the Secretariat gave the matter priority.

13. His delegation endorsed the views expressed by the International Court of Justice on the increase in its workload, which was described in the Secretary-General's report on that topic (A/53/326). The measures already taken by the Court to meet the challenge were commendable, but it must be given adequate resources to respond to the increasing needs; the General Assembly must respond to the Court's appeal, bearing in mind in particular the different treatment accorded to the Court and the International Tribunal for the Former Yugoslavia. In view of the Organization's financial difficulties, the issue should be discussed in the Fifth Committee with a view to giving priority to the Court's budget.

14. The efficiency of the Special Committee could be greatly enhanced by improving its working methods. At its fifty-third session his delegation had promised to submit a concrete proposal in the Sixth Committee, which it would now do.

15. Firstly, the Special Committee's recommendation that its sessions should be scheduled later in the first half of the year should be endorsed because delegations would then have sufficient time following the Sixth Committee's deliberations to prepare for discussions in the Special Committee. The time gap would also tend to prevent repetition of the discussions just held in the Sixth Committee.

16. Secondly, his delegation was in favour of shortening the Special Committee's sessions to one week: a calculation of the meeting time actually used at the 1998 session demonstrated that the work could be completed in one week. However, in view of the difficulty which a one-week session

might present for some delegations, his delegation proposed a compromise of a 10-day session, which could be tested in 1999 on an experimental basis.

17. Thirdly, it was important to start meetings punctually and not abuse conference services. It was particularly important for the Special Committee to set a good example by not wasting the Organization's money.

18. Fourthly, it was important for delegations to submit documents early, for participants could make only preliminary comments on documents submitted during the session. Submission of documents at least one month in advance would both enhance the discussions and produce concrete results for the sponsors of the documents as quickly as possible.

19. Lastly, in order to prevent the continual discussion of topics for many years without any concrete results and the duplication of discussions in other bodies, it would be worth studying a cut-off mechanism. It would not be appropriate to introduce new topics at present, and current topics should not be discarded without a comprehensive exchange of views. His delegation therefore proposed that the Special Committee should take a decision on the continuation of a topic after it had been on the agenda for three years, taking into consideration the topic's usefulness and the possibility of concrete results. Consideration should also be given to establishing medium and long-term programmes of work, following the example of the International Law Commission.

20. **Mr. Kerma** (Algeria) said that although the reform of the United Nations was also considered by other bodies, the Special Committee still had a role to play, especially with respect to the legal matters falling within the competence of the Sixth Committee. However, it was important for the Special Committee to be able to work in harmony with the other bodies so as to avoid duplication and waste of resources. The question of assistance to third States affected by sanctions was certainly one of the most complicated of the important issues on the Special Committee's agenda, even though no substantive results had been achieved over many years. His delegation would welcome a permanent solution to the problem, especially as the frequent recourse to economic sanctions affected an increasing number of countries and was proving counter-productive.

21. Sanctions should not have the implicit consequence of harming third countries, and it was therefore quite right that the large number of affected countries should endeavour to define fundamental principles to govern the adoption and application of mandatory sanctions. The existing system of case-by-case consideration had demonstrated its limitations, and in any event a narrow interpretation of Article 50 and the involvement of only the international financial institutions in the solution of the problem did not amount to a constructive and realistic approach. What was needed was a permanent solution involving the creation of a permanent mechanism. At their recent summit in Durban the non-aligned countries had emphasized the need to establish such a mechanism, including a fund, to help third countries affected by sanctions. His delegation nevertheless acknowledged the Secretary-General's efforts to find a solution applicable in all cases. In that connection the recent convening of an ad hoc group of experts was particularly welcome. The group's recommendations gave some idea of the difficulty of the task but they should now be implemented with respect to the Security Council.

22. It was time to undertake an in-depth examination of the sanctions regime, its objectives and its implementation. He recalled that the Durban Declaration had stressed that the imposition of sanctions was an extreme measure which should be adopted only once all peaceful means for the settlement of disputes had been exhausted. Sanctions should be limited in time and the concept of "humanitarian limits" should not only be central to any consideration of the issue but should be considered as soon as sanctions were imposed. In that connection, his delegation considered that the working paper submitted by the Russian Federation on sanctions had considerable merit and should be carefully examined. Similarly, his delegation supported the principle of continuing the examination of the proposal submitted by Cuba on strengthening the role of the General Assembly, democratizing the Security Council and introducing greater transparency to its methods of work (A/53/33, chap. III.D).

23. The Secretary-General's report on the consequences of the increase in the volume of cases before the International Court of Justice on the operation of the Court (A/53/326) was most instructive, both in the detail that the Court provided of its financial and human resource difficulties and its efforts to make its work more efficient. In those circumstances, the Special Committee could, without interfering in the Court's domain, look into practical ways of strengthening the Court while fully respecting its independence and authority. In any case, the Court should be given a favourable response to its requests, given its global mission to settle disputes between States and the growing number of cases brought before it.

24. His delegation attached importance to the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which represented the Organization's institutional memory. The Secretary-General's report (A/53/386) outlined the various methods employed to push the work forward, but the main

difficulty was the lack of financial resources and there was a real risk that publication of the *Repertory* and the *Repertoire* would slip even further into arrears. His delegation encouraged the Secretary-General to persevere in his efforts to overcome all the difficulties involved.

25. **Mr. Al-Akwaa** (Yemen) said that his delegation attached particular importance to finding ways of alleviating the negative impact of sanctions on third States. In that connection the proposals made by the Russian Federation deserved consideration and his delegation was in favour of the creation of a trust fund to assist States in accordance with Article 50 of the Charter.

26. Sanctions should only be used where it was confirmed that they were the only means of dealing with a threat to international peace and security and ensuring the stability of the region concerned. In the past, sanctions had in many cases given rise to violations of human rights, such as the right to life, food, medical care and development, and had often failed to achieve their objectives.

27. His country had suffered, and continued to suffer, economically simply as a result of its compliance with sanctions imposed on certain States; his delegation considered that the international community should assume full responsibility for compensating States that had suffered damage as a consequence of their compliance with sanctions.

28. Various delegations had made very valuable contributions on ways of strengthening the role of the Organization and revitalizing the Charter. Particular mention should be made in that connection of the proposals by the Russian Federation, Cuba and the Libyan Arab Jamahiriya (A/53/33, chap. III).

29. Referring to the proposal made by Sierra Leone for the establishment of a dispute prevention and early settlement service (A/53/33, chap. IV), he said that his delegation was in favour of avoiding duplication and preserving the freedom of States to choose whatever means they considered appropriate for the peaceful resolution of disputes.

30. The proposal made by Guatemala to amend the Statute of the International Court of Justice to enable it to rule on disputes between States and international organizations warranted detailed consideration because it would require an amendment to the Charter, of which the Statute of the Court was an integral part. However, his delegation supported the suggestion to increase the allocations to the Court so as to enable it to assume its increased responsibilities and publish its opinions and judgments in a timely manner, thereby encouraging States to resolve their disputes peacefully.

31. With respect to the proposal made by Malta concerning the Trusteeship Council (A/53/33, chap. V), he said that consideration should be given to the possibility of transferring resources from the Council, even if only temporarily, to development and environmental conservation programmes of the United Nations in the developing countries, particularly the least developed countries.

32. In conclusion, he said that some of the proposals that had been made would require amendments to the Charter. His delegation felt that such amendments should be made where certain provisions were outdated and no longer met current needs. However, changes should be made only after careful consideration of their advantages and disadvantages and would only become effective if approved by two thirds of the members of the United Nations.

33. **Mr. Andjaba** (Namibia) said that sanctions should be imposed only after all peaceful measures had been exhausted and with due regard to Articles 49 and 50 of the Charter. It was regrettable that, although some measures had been taken to mitigate the hardship caused by the imposition of sanctions, no permanent solution to the problem had been found. In that context his delegation reaffirmed its support for the proposal made by the Movement of Non-Aligned Countries that a trust fund should be established to assist third States affected by the imposition of sanctions. While financial institutions could play a role in evaluating and mitigating the economic, trade and financial effects of sanctions, however, the responsibility of finding a permanent solution rested with the United Nations, in whose name sanctions measures were imposed. The responsibility could not be passed on to financial institutions. In that connection, his delegation agreed with the view expressed in document A/53/312 that the costs of measures such as economic sanctions should be borne by the international community at large on a more equitable basis.

34. His delegation welcomed the working paper submitted by the Russian Federation entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures". Before sanctions were imposed, their scope and purpose should be defined clearly. Their duration should be clearly specified, and care should be taken that they did not undermine the capacity of either the target State or a third State to carry out its humanitarian obligations under international law.

35. With regard to proposals that the Trusteeship Council should be reconstituted to deal with environmental matters, he reiterated his delegation's view that such a move might create duplication with existing bodies. The proposals should be thoroughly examined. Lastly, his delegation supported

the recommendation by the Special Committee that its future sessions should be scheduled, to the extent possible, later in the first half of any given year.

Mrs. Flores Liera (Mexico), Vice-Chairman, took the Chair.

36. **Mr. Yengejeh** (Islamic Republic of Iran) said that the Secretary-General's report which appeared as document A/53/312 contained a number of useful ideas and recommendations, including measures to minimize the collateral damage of sanctions. Owing to the technical nature of a number of the issues raised, however, the report should be carefully examined by the Special Committee and other relevant committees before any conclusions were reached.

37. The issues covered by the revised working paper submitted by the Russian Federation were valid and deserved consideration. The time was ripe for a thorough examination of the sanctions regime. Any revision should take account of the following considerations. First, sanctions should be used only as a last resort when all other options enshrined in the Charter were exhausted. Secondly, they should always be implemented in strict accordance with the provisions of the Charter. Thirdly, due attention should be given to the adverse humanitarian impact of international sanctions on the most vulnerable sections of the population of the target State. Fourthly, the devastating effects of sanctions on trade and development required a sober assessment. Fifthly, sanctions should not be enforced for an unlimited period of time. Lastly, the United Nations had a clear mandate to apply coercive economic measures only where there existed a threat to peace or a breach of the peace.

38. There was a substantive difference between sanctions based on the Charter and unilateral economic measures by individual States, which had no basis in international law but had unfortunately been on the rise in recent years. The General Assembly had repeatedly denounced economic coercion as a means of achieving political goals, most recently in General Assembly resolution 52/181. In that context, the ideas contained in the Russian Federation's working paper could and should be further developed by the Special Committee, which had the necessary expertise to formulate the elements and principles involved; the end result would be to provide the Security Council with clearer, objective criteria to guide its decisions on the imposition and lifting of sanctions.

39. With regard to the other working paper submitted by the Russian Federation, entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations", he said that further consideration of the topic by the Special Committee should not duplicate the work of the Special Committee on Peacekeeping Operations, which was equipped with the necessary expertise. With regard to the peaceful settlement of disputes, he emphasized that the Special Committee should, in dealing with any proposal relating to dispute settlement procedures, always be mindful that the free choice of means laid down in Article 33 of the Charter was a fundamental principle of international law.

40. With regard to the proposals submitted by Guatemala and by Costa Rica relating to possible amendments to the Statute of the International Court of Justice and the extension of the Court's jurisdiction to disputes between States and intergovernmental organizations (A/53/33, chap. IV.B), his delegation was not convinced that the existing mechanisms for the settlement of disputes had proved inadequate. Furthermore, in its resolution 52/161 the General Assembly had already indicated that it would not undertake any measure leading to the amendment of the Statute of the Court. In addition, it emerged from document A/53/326 that the average length of proceedings before the Court had grown from two and a half to four years. In those circumstances it would be unwise to increase the burden on the Court by expanding its contentious jurisdiction. In that context, he commended the Court for the measures that it had undertaken to enhance its efficiency.

41. His delegation was aware that the status of the Trusteeship Council no longer conformed with modern realities. The Council was not, however, a suitable forum for a new mandate of even greater importance. Moreover, any change to the membership or the mandate of the Council would require revision of the Charter.

42. As to the working methods of the Special Committee, his delegation believed that the duration of future sessions should be determined at the end of each session, taking into consideration the Special Committee's workload. His delegation also endorsed the recommendation that sessions should be scheduled later in the first half of any given year.

43. **Mr. Zmeevsky** (Russian Federation) said that, while the Special Committee had carried out valuable work, the time was approaching for specific solutions to be found for the problems associated with sanctions. His delegation welcomed the Secretary-General's report which appeared as document A/53/312: the ad hoc expert group was on the right track in its recommendations, particularly those regarding the preparation of a tentative list of the potential effects of sanctions on third States, the monitoring of such effects by the Secretariat and the appointment in the most severe cases of a Special Representative to assess the consequences actually incurred by affected countries. Consideration should also be given to the recommendation

that special fact-finding missions should be dispatched on the ground. It was regrettable that the report had been issued late, otherwise his delegation would have been able to present a more detailed analysis. Work on the subject should undoubtedly, however, continue. His delegation would welcome a report by the Secretary-General that would summarize the reactions of States and international bodies to the experts findings. Either the group's mandate should be renewed or a Sixth Committee working group should be established to assess Governments' reactions, in particular with regard to the suggestion about the tentative list of potential effects of sanctions on third States.

44. Meanwhile, the working paper on sanctions submitted by his delegation, concentrated the Special Committee's attention on specific – above all, legal – aspects of sanctions-related issues that required urgent attention. Once the constituent factors had been properly categorized, the Special Committee could draw up rules or guidelines on the imposition, implementation and lifting of sanctions. His delegation's working paper placed particular emphasis on the "humanitarian limits" of sanctions. It drew attention to the human rights factors, the role of international humanitarian organizations and adjustments to sanctions in the light of the humanitarian situation within the State against which such sanctions were directed. That approach corresponded to the provisions of General Assembly resolution 51/242 ("Supplement to an Agenda for Peace") and other resolutions calling for further consideration of the "humanitarian limits" of sanctions. He trusted that at its next session the Special Committee would continue to consider the document paragraph by paragraph.

45. The aim of his delegation's other proposal, concerning peacekeeping, had been to highlight the legal framework of United Nations peacekeeping activities and on that basis to stimulate discussion on the issue within the Special Committee. The work should, however, be undertaken with all due caution and with due account of the results of consideration by other United Nations bodies of the practical aspects of peacekeeping. The aim should be to establish guiding principles or rules.

46. With regard to the Trusteeship Council, his delegation would prefer to maintain the status quo, under which the Council's human and financial resources were being used by other United Nations programmes. The idea that the Council should be given environmental responsibilities was contentious and would require additional painstaking consideration. Effectively, the suggestion was to establish a new United Nations body, yet the abolition of one organ and the creation of another were two separate processes that should not be combined.

47. The Special Committee had a mandate to play a substantive role in the review of the legal aspects of United Nations reform. At the same time, there had been occasional discussions on coordination between the Special Committee and other working groups dealing with the reform of the Organization. It was an issue requiring more in-depth discussion, both to make the Special Committee more efficient and to avoid duplicating the work of other United Nations bodies.

48. His delegation hoped that the suggestions contained in paragraph 163 of the Special Committee's report would in practice rationalize its work. With regard to the Secretary-General's report on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/53/386), it was regrettable that the document had been issued too late. He hoped that the measures undertaken within the Secretariat would help stem the delay in issuing the *Repertory* and the *Repertoire*.

49. **Mr. Gõrõg** (Hungary) said that his delegation associated itself with the statement made earlier on the item by the representative of Austria on behalf of the European Union, and would therefore confine itself to a few additional remarks in two areas of specific interest.

50. His delegation placed on record its appreciation for the report of the Secretary-General (A/53/312), which offered a valuable assessment of the problems affecting third States as a result of the imposition of sanctions, and suggested possible remedies that could be implemented by the international community. His country was among those which had been exposed to the damaging economic consequences of the sanctions imposed against the Federal Republic of Yugoslavia. Nevertheless, during the period of the sanctions regime, his Government had adhered faithfully to the provisions of the relevant Security Council resolutions. While his country had witnessed the positive signs of international cooperation referred to in the statement of the European Union, its experience also showed that the provisions of Article 50 of the Charter of the United Nations had yet to be fully implemented.

51. His delegation was well aware of the difficulties confronting the international community as it endeavoured to strike a balance between, on the one hand, the need to uphold international law and the responsibilities of the Security Council under the Charter, and, on the other hand, the legitimate requests of third States for assistance that would enable them to cope with the special economic problems they faced as a result of the carrying out of enforcement measures. Against that backdrop, his delegation shared the cautious approach reflected in the conclusions and

recommendations of the ad hoc expert group (A/53/312, paras. 49–57). Those conclusions and recommendations represented an important step towards genuine implementation of the provisions of Article 50 of the Charter and deserved serious and timely consideration by the General Assembly, the Secretary-General and the Security Council.

52. Turning to the issue of the consequences that the increase in the volume of cases before the International Court of Justice had on the operation of the Court (A/53/326), his delegation reconfirmed its support for the European Union's position on that question. As the principal judicial organ of the United Nations, the Court should always be given the necessary means to perform its functions without major financial constraints. His delegation had studied with great interest the comments and observations received from the Court. While it was appreciative of the efforts made by the Court to meet the challenge of its increased workload, his delegation was of the view that such efforts could not resolve all the growing difficulties faced by the Court. His Government endorsed the view that if the necessary resources were not provided, the importance of the peaceful resolution of international disputes through law would be greatly diminished. That would be all the more regrettable in the light of the trend seen over the past decade, namely, the marked increase in recourse by States to the Court.

53. Having been a party to a case before the Court, Hungary continued to have a vested interest in the efficient and unimpeded execution of its tasks. In that connection, his delegation had taken note of the recommendations and proposals concerning the written pleadings and the oral statements in the proceedings of the Court, contained in the annex to document A/53/326. His delegation, while fully aware of the constraints resulting from diminished resources and the budget already approved for the biennium, hoped that the legitimate requests of the Court would be honoured by the General Assembly in the preparation and adoption of the forthcoming biennial budget.

54. **Mr. Sotirov** (Bulgaria) said that his delegation, too, endorsed the views of the European Union on the item under consideration. As stated on previous occasions, his delegation attached paramount importance to the maintenance of international peace and security and supported the joint efforts of the international community to that end, including those undertaken under Chapter VII of the Charter. His Government had strictly implemented all the Security Council resolutions imposing sanctions on the Federal Republic of Yugoslavia and his country had suffered serious economic losses as a result. If those losses were combined with the costs resulting from the imposition of sanctions against the Libyan Arab Jamahiriya and Iraq, then the total direct and indirect costs to his country would be comparable to its foreign debt. His delegation therefore attached particular importance to the implementation of the Charter provisions related to assistance to third States affected by the application of sanctions. It had repeatedly stressed that the application of certain measures under Chapter VII of the Charter should be accompanied by efforts to avoid negative effects on third States, and, where such effects nonetheless occurred, to assist those States promptly and effectively. To that end, the establishment of an appropriate mechanism for rendering assistance to third States facing such difficulties was still needed.

55. In that context, his delegation welcomed the provisions of General Assembly resolutions 50/51 and 51/208, especially the appeal to organizations within and outside the United Nations system to continue to address more specifically and directly the issue of economic assistance to third countries affected by sanctions. His delegation noted the response of the international financial institutions, other international organizations and donor countries to the Secretary-General's request to them to take into consideration the special economic problems arising from the implementation of sanctions. The concerns of States had been reflected to a greater or lesser extent in the support programmes and specific activities of the institutions in question.

56. His delegation appreciated the continuing attention paid by intergovernmental and regional organizations, particularly the Organization for Security and Cooperation in Europe (OSCE) and the European Union, to the needs of affected States for assistance in governance, capacity-building and the development of a regional transport, energy and communications infrastructure. It must be recognized, however, that the assistance rendered so far was still inadequate to compensate for the losses resulting from the implementation of sanctions. His delegation therefore welcomed the deliberations and main findings of the ad hoc expert group meeting contained in document A/53/312, particularly the results of the discussion on issues related to: (a) developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measure, and (b) exploring innovative and practical measures of international assistance that could be provided to third States by the relevant organizations within and outside the United Nations system.

57. With regard to the development of a possible methodology, his delegation shared the view that the important issue was finding an appropriate procedure for the

implementation of such methods. The elaboration of a general conceptual framework for identifying and assessing the effects of United Nations-imposed preventive or enforcement measures on third States was very important. The consideration of issues and procedures related to the identification and proper categorization of various effects, the selection of applicable methods for estimating the incurred losses and costs, and subsequently the design of feasible and practical measures of relief and international assistance were to be commended. Such approaches must, however, contribute to the development of a general methodology of impact assessment.

58. With regard to concrete measures of assistance to affected third States, his delegation supported the suggestions that the International Monetary Fund (IMF) and the World Bank might wish to consider establishing a mechanism which would allow those institutions to mobilize new and additional resources from all potential funding sources in order to provide emergency financial support to affected third States on exceptional and concessionary terms. His delegation also noted the recommendation that the United Nations development programmes and specialized agencies should focus on providing emergency relief, as well as longer-term assistance, to affected third States to enable them to cope with the social and humanitarian effects of sanctions. The application of funding procedures similar to those adopted for peacekeeping operations also deserved careful attention and analysis.

59. His delegation was of the view that the Sixth Committee and the Special Committee should continue their efforts aimed at finalizing the work on the issue as soon as possible so that the ideas contained in the report could be translated into practice. Bulgaria trusted that the draft resolution on the issue, of which his country was a sponsor, would be supported by Member States.

60. **Ms. Betancourt** (Venezuela) said that her country attached special importance to the issue of assistance to third States affected by the application of sanctions. The adoption of sanctions against a State should be viewed as an extreme measure to be taken only after all other possibilities had been exhausted, and only when it had been determined that there was a threat to international peace and security.

61. Her delegation had studied the report of the Secretary-General on the findings of the ad hoc expert group convened pursuant to General Assembly resolution 52/162 (A/53/312). The Committee should examine the report in detail, and should consider ways to set up an effective mechanism for enhancing the role of the financial institutions.

62. Her delegation supported the recommendations made by the ad hoc expert group concerning the methodology that should be developed for assessing the consequences incurred by third States as a result of preventive or enforcement measures. A mechanism should be set up to allow for consultations between the Security Council and the countries that might be affected by sanctions imposed on other States.

63. With regard to the application of Article 50 of the Charter, she said that the revised version of the working paper submitted by the Russian Federation entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures" provided some useful insights into the legal and humanitarian aspects of sanctions. However, the Russian proposal to the effect that some aspects of peacekeeping operations should be considered in the context of Chapter VI of the Charter could lead to an overlapping of activities with other bodies within the Organization that were already dealing with that matter. The Special Committee should be careful to use its time wisely, given that it had so many other important items on its agenda.

64. Turning to the question of the settlement of disputes, she said that the new working paper submitted by the delegation of Sierra Leone, on the establishment of a dispute prevention and early settlement service was interesting and should be given close consideration by the Committee. Although the proposal was an ambitious one, it could eventually lead to the adoption of a mechanism for using diplomatic channels for dispute prevention and early settlement.

65. The time did not seem right for the Guatemalan proposal on possible amendments to the Statute of the International Court of Justice to extend its competence with respect to contentious matters to disputes between States and international organizations, particularly since so few countries had made the declaration referred to in Article 36, paragraph 2, of the Statute.

66. Her delegation endorsed the recommendation in paragraph 167 of the report of the Special Committee (A/53/33) to the effect that the future sessions of the Special Committee should be scheduled, to the extent possible, later in the first half of any given year. She wished to stress, however, that the Special Committee's sessions should not be shortened.

67. **Mr. Rosenstock** (United States of America), noting that the Special Committee had recommended to the General Assembly that its future sessions should be scheduled, to the extent possible, later in the first half of any given year, said that his delegation could go along with that suggestion

provided that it did not conflict with other imperatives. The Special Committee must be able to make adjustments in its schedule in line with what the situation required. To insist, mechanically, that the Special Committee should meet every year for the same period of time, regardless of circumstances, was to risk relegating the Special Committee to the category of a useless encumbrance. To the extent that it was desirable for the Special Committee to meet, his delegation would support any suggestion aimed at enhancing its efficiency, including a concerted effort to rationalize its work in the light of the work being carried out by other bodies. For example, the current proposals for the Special Committee to establish basic principles and criteria in the areas of peacekeeping and enforcement measures were clearly duplicative.

68. As part of a real effort to make the best use of the limited resources available, the Special Committee must be able to distinguish between those matters on which the potential existed for it to make a significant contribution and those on which it did not. Whether the Special Committee should meet in 1999 and for how long should be a function of the issues before it and the demands made on finite resources by other bodies.

69. With regard to the question of the implementation of the Charter provisions related to assistance to third States affected by the application of sanctions, his delegation was of the view that a sharpened focus on methodological and other technical issues, rather than further drafting exercises, was precisely the type of activity that was warranted at the current stage. His delegation expressed appreciation to the participants in the expert group meeting for their valuable work, which had highlighted the difficulties inherent in developing a standard methodology for assessing the third-country impact of sanctions, and to the Secretary-General for the report on the meeting (A/53/312). The logical follow-up would appear to be to solicit the views of Member States and others concerning the deliberations of the expert group as reflected in the Secretary-General's report. On the other hand, consideration of such a report by a working group of the Sixth Committee would probably be unproductive.

70. It was especially important to solicit the views of the international financial and trade institutions. As noted in paragraphs 43 and 44 of the Secretary-General's report, the expert group was of the view that the international financial institutions, both at the global and regional levels, possessed, in principle, the required expertise, existing instruments and financial resources to assist Member States in coping with such external economic shocks as the imposition of sanctions. For that reason, the group agreed that those institutions should play the lead role in both assessing the economic consequences actually incurred by third States and in providing financial assistance to those affected countries. The expertise of the international financial institutions would be most useful in implementing practical approaches to the difficulties encountered by some States in providing certain types of information identified by the expert group. While some delegations continued to hold the view that looking to the international financial and trade institutions to play a lead role with respect to those matters was an abdication of the role and responsibilities of the Organization, other delegations, as well as the ad hoc expert group, viewed that as a "real-world" approach to Article 50 issues, unlike proposals for the establishment of a trust fund, which were clearly unrealistic.

71. As mentioned in the report, there were other steps that could be taken to make the best possible use of existing resources and expertise, including the mobilization of various parts of the Secretariat with a view to developing and providing appropriate information in as effective and timely a manner as possible. Governments and the Secretariat would need to assess whether the expert group's recommendations made good substantive as well as bureaucratic sense.

72. Lastly, contrary to what some delegations had suggested, a decision by the Security Council to impose sanctions was indeed a step taken as a last resort. Such a step must never be taken lightly, precisely because of the potential effects on third States. His country, too, was included in that group; as noted in the report, the imposition and implementation of sanctions had reduced United States bilateral trade by up to 91 per cent in some cases.

73. Turning to the consequences that the increase in the volume of cases before the International Court of Justice had on the operation of the Court (A/53/326), he said it was clear from the Court's thorough response to the Secretary-General's invitation to comment that it had been waiting for an opportunity to make its concerns known. In that regard, the initiative taken by Mexico in the Special Committee and endorsed by the Special Committee and the General Assembly had served a useful purpose. In the contemporary world, it was of the utmost importance that the existing dispute settlement institutions should be as strong as possible. His delegation was inclined to support the proposal submitted by Guatemala for the transmission of the Court's views to the Fifth Committee for its consideration.

74. With regard to the proposals concerning the Trusteeship Council contained in the report of the Special Committee, his delegation maintained the view that the most

appropriate step would eventually be to eliminate the Trusteeship Council and amend the Charter accordingly.

75. As to the proposal submitted by Sierra Leone for the establishment of a dispute prevention and early settlement service, his delegation continued to believe that further practical steps should be taken to enhance the early warning of and timely intervention in disputes, and that the proposal laid the groundwork for further attention by the Special Committee.

76. Lastly, with regard to the *Repertory* and the *Repertoire* (A/53/386), his delegation shared the view of the European Union that if it proved impossible to speed up the preparation and production of the two publications, the Secretary-General should consider the possibility of outsourcing the work to interested academic institutions. As an alternative, such a step could be taken on a one-time basis, solely for the purpose of eliminating the backlog, while responsibility for future volumes would continue to lie with the Secretariat. In that case, new procedures would need to be implemented which would enhance the timeliness of production of the publications. His delegation also agreed that every effort should be made to provide for access to those sources through the World Wide Web.

77. Lastly, his delegation's decision not to dignify with a reply the absurd remarks made by the Democratic People's Republic of Korea should not be construed as acquiescence in that State's attempt to rewrite history.

78. **Mr. Ogonowski** (Poland) said that his delegation endorsed the statement made under the item before the Committee by the representative of Austria on behalf of the European Union.

79. On the question of assistance to third States affected by the imposition and implementation of sanctions, he said that the conclusions contained in the report of the ad hoc group of experts (A/53/312) should be discussed in depth, given the complex nature of the problem. It should be borne in mind that what was at stake was the effectiveness of sanctions regimes in general. Serious consideration should be given to the implementation of Article 50 of the Charter in each case of imposition and implementation of sanctions. It was also important not to lose sight of the aim of the application of sanctions, which was to maintain or restore international peace and security. To achieve that aim, sanctions had to be effective. They were, under normal circumstances, preferable to the use of armed force provided for in Article 42 of the Charter.

80. While the legal basis for peacekeeping operations was contained in the Charter, the requirements of a particular operation would normally necessitate the creation of an additional legal framework suitable for the specific circumstances of each case. In considering that issue, the Special Committee on the Charter should avoid encroaching upon the competence of other bodies. The proposal concerning the establishment of a dispute prevention and early settlement service submitted by Sierra Leone should be given further consideration.

81. With regard to the future of the Trusteeship Council, his delegation was of the opinion that the Special Committee should continue to discuss the various proposals that had been tabled with a view to reaching consensus.

82. Referring to the report of the Secretary-General on the consequences that the increase in the volume of cases before the International Court of Justice had on the operation of the Court (A/53/326), he pointed out that the Court did not operate the way other United Nations organs did and had limited possibilities to generate savings. It had taken significant steps to improve the efficiency of its work; his delegation hoped that measures would be taken to provide it with sufficient means to continue working efficiently.

83. Efforts to reduce the backlog in the preparation of the *Repertory* and the *Repertoire* should be significantly increased.

84. In regard to the working methods of the Special Committee, he said that sufficient time should be given to prepare for its session after the conclusion of the main part of the session of the General Assembly in December. In the future, the work of the Special Committee should be concentrated on legal matters, giving priority to those areas where progress within a reasonable time was feasible.

85. **Mr. Manongi** (United Republic of Tanzania) said that the issue of assistance to States adversely affected by supporting sanctions imposed by the Security Council was important for two reasons: firstly, because the ability of the Security Council to impose meaningful sanctions for the purposes of restoring or maintaining international peace and security depended on the degree of support the sanctions regime received from Member States; secondly, because Member States called upon to enforce sanctions were less likely to be reliable allies when there was no assurance that the substantial economic sacrifices they were to undertake would be alleviated by an established burden-sharing mechanism.

86. It was in that context that his delegation commended the findings of the ad hoc expert group. The ad hoc group's contribution was critical in giving meaning and operational value to Article 50 of the Charter. In particular, his

delegation welcomed the norms and procedures for impact assessment recommended by the ad hoc group; however, the impact of those recommendations would be further strengthened by providing a specific mechanism for the adjudication of claims submitted by third States. The matter was too important to be left to consultations alone.

87. At a time when reform of the United Nations was also understood to mean downsizing, it was difficult to suggest establishment of a fully fledged body acting as an agency of the Security Council. Nevertheless, proposals for setting up a fund to help affected States deserved serious attention.

88. His delegation further commended the ad hoc group for pointing out that financial assistance might need to be supplemented by non-financial measures of trade promotion. The Security Council and the Secretary-General should encourage the creation of new trading relations to serve as a reliable framework for mutual support in the enforcement of sanctions.

89. **Mr. Pham Truong Giang** (Viet Nam) said that his delegation attached great importance to the implementation of Charter provisions concerning assistance to third States affected by the imposition of sanctions. Sanctions shou'd be considered only as a last resort, after all peaceful means of settling a dispute had been exhausted and after a clear determination of the existence of a threat to peace or a breach of the peace had been made. The imposition of sanctions by the Security Council should always be accompanied by financial arrangements for assisting third States that might be affected. Under Article 50 of the Charter, those third States were entitled to consult the Security Council with regard to a solution of their problem.

90. His Government fully endorsed the position taken by the Non-Aligned Movement at its 1998 summit on the question of sanctions and assistance to third States. Sanctions should be imposed for a specified time-frame and should be based on tenable, legal grounds; as soon as their objectives were achieved, they should be removed. In order to allow for a permanent solution to the matter, an effective mechanism should be established and a fund should be set up to provide relief to third countries affected by United Nations sanctions.

91. The convening of an ad hoc group of experts was a step in the right direction, but there should be adequate participation in the group's meetings on the part of experts from those third States and the group should reflect equitable representation of geographical regions and different legal systems.

92. The revised proposal by the Russian Federation on basic conditions and criteria for imposing and implementing sanctions and other enforcement measures was very useful, and should be examined in detail by the Committee.

93. The working paper submitted by the Russian Federation on the legal basis for peacekeeping operations in the context of Chapter VI of the Charter was also very practical, and should be helpful in developing a legal framework for peacekeeping operations. Bearing in mind that 1998 was the fiftieth anniversary of United Nations peacekeeping operations, a set of basic guidelines for those activities should be devised on the basis of the provisions of the Charter and the experiences of the past fifty years.

94. The Special Committee should play a more active role in and make a greater contribution to the ongoing process of reform of the Organization. Special attention should be paid to the enhancement of the role of the General Assembly and the expansion of the Security Council, which should be made more representative and accountable, with due regard for the participation of developing countries, in accordance with the principles of sovereign equality and equitable geographical representation. In that regard, the Committee should set aside enough time to discuss in depth the proposal submitted by Cuba on strengthening the role of the Organization and enhancing its effectiveness.

95. Turning to the question of peaceful settlement of disputes, he said that the proposal by Sierra Leone on the establishment of a dispute prevention and early settlement service should be examined further, especially with regard to issues relating to the definition, scope, mandate and financial implications of the proposed mechanism.

96. His delegation considered the *Repertory* and the *Repertoire* to be important reference sources, and supported their early updating and continued publication.

97. His delegation had given careful consideration to the proposals on the strengthening of the International Court of Justice, in particular the proposals made by Guatemala and Mexico.

98. He reaffirmed his delegation's support for the inclusion of an item on the report of the Special Committee on the provisional agenda of the fifty-fourth session of the General Assembly.

99. **Mr. Dahab** (Sudan) said that the International Court of Justice had an essential part to play in the prevention of the use of force by States to resolve their disputes, which was among the noblest objectives of the United Nations, and that the financial difficulties being faced by the Court, as described in the report of the Secretary-General on the

increase in its workload (A/53/326) were hardly in keeping with its important role. It was the duty of the General Assembly to adopt an appropriate resolution in order to resolve those difficulties.

100. The Special Committee's report dealt with some of the most important responsibilities of the Organization.

101. With respect to the imposition of sanctions, it was worth remembering that, as the delegation of the Russian Federation had pointed out to the Special Committee the previous year (A/52/33, para. 30), sanctions had been imposed 116 times during the twentieth century while the intended objectives of the sanctions had been achieved only in 41 cases. Of those, the success rate had been 50 per cent before the 1980s, whereas since then the success rate had been only 25 per cent. He appealed to the Sixth Committee to adopt the draft resolution which had been submitted at the previous session by a number of delegations calling for a study to be made of cases in which the Security Council had taken action under Chapter VII of the Charter.

102. Referring to the working paper submitted by the Russian Federation entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures", he drew attention to some of the conditions specified in the paper that should govern the imposition of sanctions in particular: the need to set a time-frame for sanctions, the impermissibility of using sanctions to overthrow or change the lawful regime or the existing political order in the country that was the object of sanctions, and the fact that sanctions should be a last resort to be applied only after exhaustion of all the peaceful remedies specified in the Charter.

103. Sanctions had a devastating effect on the developing countries in general, and on the least developed countries in particular, and could impair their development and even threaten their very existence and territorial integrity. Due attention should also be paid to the impact of sanctions on children and it should be borne in mind that sanctions impaired basic human rights in the countries against which they were imposed, and in third countries affected by those sanctions.

104. Notwithstanding the many questions that had been raised as to the competence of the Special Committee to consider the issues currently under discussion, his delegation reaffirmed its conviction that the Sixth Committee had competence to address those issues through the Special Committee. Coordination between the various working groups within the United Nations system was required in order to give effect to its lofty purposes, and such coordination should be carried out by the Office of Legal Affairs of the United Nations.

105. In conclusion, he said that the reform within the United Nations and the improvement of its functioning was dependent on the implementation of the provisions of the Charter and on the authority of the General Assembly.

106. **Mr. Lordkipanidze** (Georgia), referring to the question of sanctions, pointed out that under Chapter VII of the Charter, the Security Council had broad discretionary powers to decide and which measures to apply in different situations and when to apply them. Thus, the scope of application of those powers extended to situations that did not match the description of inter-State disputes but still posed a threat to international peace and security. There was a potential for internal conflicts to attain the magnitude of a threat to international peace and security; for example, aggressive separatist movements could undermine the sovereignty and territorial integrity of a Member State and thus endanger peace and security in a whole region. That was the case in Abkhazia, Georgia, where ethnic cleansing of the Georgian population was leading to uncontrolled militarization of the region.

107. His delegation was of the view that sanctions should be imposed only in the event of a real, objectively verified and factually established threat to international peace or a breach of the peace. Nevertheless, the Security Council should be allowed a wide margin of action in determining what constituted a threat. Due consideration should be given to the practice whereby the Security Council supported by its resolutions measures undertaken at the national level and recommended additional measures if necessary.

108. Notwithstanding the complex consequences of sanctions, the concern that they should not be instrumental in changing the existing political order was not entirely justified. It was difficult, if not impossible, to establish a clear correlation between sanctions and overthrowing or changing a lawful regime or existing political order. Moreover, sometimes a political order, by virtue of its very existence (as stated in the Namibia advisory opinion) might constitute a breach of international peace.

109. His delegation remained committed to the concept of "smart sanctions", in other words, sanctions that would differentiate the targeted regime from its population. Sanctions should be limited by the principle of proportionality and the norms of international humanitarian law, and any attempt to clarify and enumerate principles of "humanitarian limits" deserved support.

110. His delegation was entirely in agreement with the idea that when sanctions were imposed, the problems of third States should be considered and addressed. In that regard, it fully endorsed the recommendations set out in the report of the Secretary-General on implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/53/312).

111. The Guatemalan proposal on possible amendments to the Statute of the International Court of Justice to extend its competence with respect to contentious matters to disputes between States and international organizations should be given careful consideration. In the same vein, his delegation also noted with interest the report of the Secretary-General on consequences that the increase in the volume of cases before the International Court of Justice had on the operation of the Court (A/53/326); a principal organ of the United Nations should be provided with all necessary resources to carry out the task allocated to it under the Charter.

The meeting rose at 1.05 p.m.